IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 7518 of 2007(T)

RCP.149/2004 of PRL.M.C.-II,KOZHIKODE
.....

PETITIONER:

K.N.JNANASEKHARAN, AGED 32 YEARS,
S/O.K.N.MUTHUSAMI CHETTIAR, 19/1877,
KASABA AMSOM DESOM, P.O.CHALAPPURAM,
KOZHIKODE-2.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS:

K.REGHUNANDANAN, ADVOCATE,
AGED 32 YEARS, S/O.KPG PANICKER,
KASBA DESOM, P.O. CHALAPPURAM, KOZHIKODE TALUK.

BY ADV. SRI.JACOB ABRAHAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).7518/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE I.A.NO.1126/2005 FILED BY THE PETITIONER 18.3.2005 BEFORE THE COURT BELOW IN RCP.NO.149/2004.

EXT.P2: COPY OF THE REPORT FILED BY THE ADVOCATE COMMISSIONER DATED 7.2.2006 IN THE ABOVE RCP.

EXT.P3: COPY OF THE SKETCH.

EXT.P4: COPY OF THE I.A.NO.765/2006 FILED BY THE PETITIONER IN THE ABOVE RCP.

EXT.P5: COPY OF THE I.A.NO.3167/2006 FILED BY THE PETITIONER IN THE ABOVE RCP.

EXT.P6: COPY OF THE ORDER DATED 19.2.2007 IN I.A.1126/2005 OF THE COURT BELOW.

EXT.P7: COPY OF THE COMMON ORDER DATED 19.2.2007 IN I.A.765/2006 AND 3167/2006 OF THE COURT BELOW.

EXT.P8: COPY OF THE ORDER DATED 19.2.2007 IN I.A.453/2007 OF THE COURT BELOW.

/TRUE COPY/

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

W.P.(C).NO.7518 OF 2007 (T)

Dated this the 21st day of June, 2007

J U D G M E N T

KOSHY,J.

When petition for eviction was filed against the petitioner under the BRC Act, petitioner herein who is the tenant raised an objection to the effect that he is entitled to get kudikidappu right and the matter should be referred to the Tribunal under Section 125 (3) of the Kerala Land Reforms Act. On the basis of the Commission report and plan it was found that petition schedule house is part of the building and entrustment was in the year 1973. If the entrustment of the building is in 1973 as seen from the kaicheet produced, there cannot be any kudikidappu right. Apart from the above, it is also seen that valuation of the building assessed by the Commissioner after deducting depreciation at 60% was Rs.91,899/-. It is a laterite stone building with three rooms. It is the contention of the petitioner that he will be able to produce documents to show

that he was in possession of the building even earlier. But the fact is that such documents were not produced. We see no ground to interfere with the orders Ext.P6, P7 and P8 passed by the authorities below. We agree with the observations of the Appellate authority that intention behind the I.A. was only to drag the proceedings. With the above observations this writ petition is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

8th June, 2007